



Office of Personnel Management



Retirement Counselor Letter

Number: 88-107

Date: APR 25 1988

Subject: Belated FERS Elections and the Public Pension Offset

1. The purposes of this letter are to remind agencies of their authority to accept belated elections to transfer to the Federal Employees Retirement System (FERS) and to explain how belated elections and elections which never became effective affect the Public Pension Offset (PPO) under the Social Security Act.

2. Section 846.204(a) of Title 5, Code of Federal Regulations, authorizes employing offices to accept late FERS election when "an individual was unable, for cause beyond his or her control, to elect FERS coverage within the prescribed time limit." This would include, for example, a case in which the employee was not notified, or was not otherwise aware, of the last-minute Congressional action to permit employees electing to join FERS to avoid the PPO in time to transfer to FERS by December 31, 1987. Belated elections approved by agencies are effective at the start of the first pay period after the agency receives the election.

3. The Social Security Administration has advised us that employees whose regular opportunity to elect FERS expired on December 31, 1987, but who make a belated election which was approved under 5 CFR 846.204, and which subsequently took effect, are exempt from the PPO. The Social Security Administration does not decide whether the election took effect, but rather relies on evidence listed in paragraph 5. Agencies that accept a belated enrollment under §846.204(a) should provide the employee with evidence for this purpose which should be retained by the employee for future use when applying for Social Security benefits.

4. Agency authority to accept belated elections is limited to elections received within six month of the employee's time limit for a normal transfer to FERS. Agencies are not authorized to approve retroactive effective dates for belated elections. The appeals procedure for employees dissatisfied with the effective date of a belated election (or whose belated election is not accepted) is contained in FPM Letter 846-2, dated November 12, 1987.

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5. To qualify for the exemption from the PPO, the employee may submit to the Social Security Administration field office where they apply for benefits--

- ° a notification of personnel action (SF 50) showing a FERS retirement code (K, L, M, N, or P) effective before January 1, 1988; or

- ° a statement from OPM or the employing agency (e.g., a pay statement), covering a period before January 1, 1988, and showing FERS/FICA deductions; or

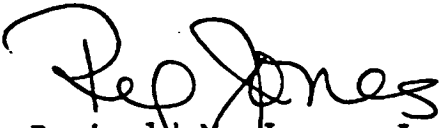
- ° a FERS annuity statement from OPM showing an annuity commencing date before January 1, 1988; or

- ° an election of coverage form (OPM Form 1555) signed by the claimant before January 1, 1988, and a notification of personnel action (SF 50) showing a FERS retirement code (K, L, M, N, or P) or another official statement showing that the election took effect; or

- ① a statement from the employing agency, OPM, MSPB, or a court of competent jurisdiction showing that a belated open season election was allowed and a notification of personnel action (SF 50) showing a FERS retirement code (K, L, M, N, or P) or another official statement showing that the election took effect. The date of effectuation is immaterial.

6. The Social Security Administration has also advised us that employees who filed a FERS election form which never became effective (such as in the event the employee separated before the effective date of the election) are not exempt from the PPO. If this occurred in your agency, please call Mary Sugar at (FTS) 632-0656 for further information on correcting this problem.

*Sugar
primarily for
annuitants, but
might also call about
resignees.*


Reginald M. Jones, Jr.
Assistant Director

for Retirement and Insurance Policy